IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO. 1368 OF 2003

State of Maharashtra .. Applicant

versus

Pramod Kashinath Rewaskar .. Respondent

...

Mr.D.P. Adsule, APP for the State.

Mr.Anil S.Lalla i/b M/s.Lalla & Lalla for the respondent no.1.

A N D

CRIMINAL REVISION APPLICATION NO. 241 OF 2003

Smt.Salma Mehmood Ansari .. Applicant

versus

Pramod K. Rewaskar & Anr. .. Respondents.

Mr.S.R. Borulkar for the applicant.

Mr.A.S. Lalla for the respondent no.1.

CORAM : V.M.KANADE, J

DATED : 3rd December 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State, the learned counsel appearing on behalf of the applicant and the leaned counsel appearing on behalf of the original complainant in Criminal Application.

2. The State has filed the Criminal Appeal challenging the judgement and order passed by Addl.Chief Metropolitan Magistrate, Bombay in case no. 151/P-1999. By the said judgement and order dated 20th March 2003, the trial Court acquitted the accused of the offences punishable u/s.354 of the IPC. The State has challenged this judgement and order. The original complainant also has filed a Criminal Revision Application no. 241 of 2003.

3. The prosecution case is that the complainant had gone to the Nair hospital on 9th July 1998 at about 12 noon along with her sister in law. While her sister-in-law had gone inside the Doctor’s cabin and was being examined by the Doctor, she had kept her

child with the complainant. The child started crying and therefore, the complainant came to the ground floor. However, the child did not stop crying. At that time, the accused came near the complainant and took the child from her arm and went inside the ward room. Thereafter, he called the complainant inside. However, she refused to go in. Thereafter, according to the complainant the accused caught her hand and insisted that she should come in the lift. However, the complainant refused to go along with him. Then it is alleged that the accused tried to touch the body of the complainant of the with an intention to outrage her modesty. Thereafter, the complainant went to the first floor to her sister in law. When the said accused chased her and came along with the child and asked her to take the child, the complainant thereafter lodged a complaint against the accused. The charge was frames. Six witnesses were examined and the trial Court acquitted the accused.

4. The original complainant in her Revision Application has annexed a copy of the evidence of the complainant. I have perused the judgement and order and also the evidence of PW no.1 complainant. From the evidence of the complainant, it can be seen that

she has made number of improvements in her statement. All these omissions are bought on record by the defence. The complainant has not stated before the police that the accused had caught her hand and had tried to remove the buttons of her burkha or had tried to touch her chest. As many as 15 omissions are brought on record by the defence. It is difficult to accept the version of the complainant in the face of these omissions which are brought on record. The trial Court in my view has correctly appreciated the evidence on record and has come to the conclusion that the prosecution has not proved its case beyond reasonable doubt.

5. I do not see any reason to interfere in the said judgement and order by the trial court and the finding recorded by the trial court is neither unreasonable nor perverse.

6. Leave is refused. Appeal is dismised. Criminal Revision Application is rejected.

V.M.KANADE, J